

**Vermont Department of Taxes**  
**TECHNICAL BULLETIN**

**TAX: MEALS AND ROOMS**

**TB-13**

**SUBJECT: Purchaser-Based Treatment of the  
Vermont Meals and Rooms Tax**

**ISSUED: 10/13/98**

**REFERENCE: 32 V.S.A. §§ 9201 - 9281**

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This Technical Bulletin addresses the scope of the exemptions from the Vermont Meals and Rooms Tax. Nothing contained in this bulletin is intended to apply to any Vermont tax other than the Meals and Rooms Tax.

***Exemption Available:*** The Vermont Meals and Rooms Tax Law, embodied at 32 V.S.A. §§ 9201 - 9281, has no section which exempts specific purchases from the meals and rooms tax.<sup>1</sup> Exemptions do exist, however, and can be found in various other state and federal laws.

***Purchaser-Based Treatment of the Vermont Meals and Rooms Tax:***

**State of Vermont**

The State of Vermont is not subject to the Vermont Meals and Rooms Tax when it directly pays charges for meals and occupancy. For a State to impose a tax upon itself would be to tax its operations and, therefore, would be a direct obstruction to the exercise of its sovereign power. *See James v. Dravo Contracting Co.*, 302 U.S. 134 (1937). Accordingly, when the State of Vermont is charged directly for meals and rooms expenses, no Meals and Rooms Tax should be charged.

Note that in order for this exemption to apply, expenses must be charged *directly* to the State of Vermont—indirect charges like employee reimbursement are not exempt from the tax. *See below*. To qualify as exempt, the State must be charged or billed in its own name.

For purposes of the exemption from the Meals and Rooms Tax, the “State of Vermont” shall mean the state, any of its agencies, instrumentalities, public authorities, public corporations, political subdivisions, cities, towns, school districts, and Vermont state colleges (including the University of Vermont). For a listing of State of Vermont agencies and instrumentalities, see Attachment A.

**State of Vermont Employees**

When an employee of the State of Vermont, whether acting in his or her official capacity or not, purchases an otherwise taxable meal or occupancy, the employee is not

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<sup>1</sup> Certain foods and beverages are excluded from the definition of “taxable meal” based upon where they are served or the quantity in which they are purchased, *see* 32 V.S.A. § 9202, but those are not exemptions based on the identity of the purchaser, and are thus not the subject of this bulletin.

entitled to an exemption from the Meals and Rooms Tax.<sup>2</sup> It is irrelevant whether the employee pays for such expenses with a State issued credit card<sup>3</sup> that is billed to the employee, other credit cards, personal checks, or cash. If it is the employee, and not the State, who is charged for the expenses, the transaction is properly subject to the Meals and Rooms Tax since the exemption runs to the State, not to an individual employee of the State.

Note that it is wholly permissible for the State of Vermont to reimburse an employee for an amount paid which includes the Meals and Rooms Tax. In such a transaction, the State merely bears an indirect burden of the tax-- the State is not paying a tax, but is merely reimbursing the employee for his or her expenses. Thus, the State is simply bearing the economic burden of the Meals and Rooms Tax paid by that employee. *See Alabama v. King and Boozer*, 314 U.S. 1 (1941).

### **Federal Government**

Under the Supremacy Clause of the U.S. Constitution, no state is permitted to directly tax the federal government or any of its agencies or instrumentalities. *U.S. CONST. art. IV*. The State of Vermont, therefore, may not subject the federal government or any of its agencies or instrumentalities to the Vermont Meals and Rooms Tax. Sales to government agencies or instrumentalities are exempt, however, only if charged directly to the federal government. To qualify as exempt, the federal government, agency or instrumentality must be charged or billed in its own name.

For purposes of the exemption from the Vermont Meals and Rooms Tax, the term “federal government” shall mean the United States of America and any of its agencies or instrumentalities. For a listing of federal agencies and instrumentalities, see Attachment B.

### **Federal Government Employees**

Federal government employees who travel to or through Vermont on government business or who make purchases on behalf of the federal government while in Vermont are not necessarily exempt from paying the state’s Meals and Rooms Tax on meals and occupancy.<sup>4</sup> While the Supremacy Clause of the U. S. Constitution prohibits states from levying a tax directly on the U.S. government and its instrumentalities, such immunity does not extend to all employees or agents acting on behalf of the federal government.

There are several types of federally-issued credit cards.<sup>5</sup> Only meals and occupancy transactions charged by a federal employee by means of a special VISA credit

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<sup>2</sup> A party contracting with the State (e.g., an independent contractor) is bound by the same rules applicable to an employee of the State.

<sup>3</sup> To be a state issued credit card, the face of the card must be imprinted with the phrase “State of Vermont.”

<sup>4</sup> A party contracting with the federal government (e.g., an independent contractor) is bound by the same rules applicable to an employee of the federal government.

<sup>5</sup> The reader is advised that the descriptions of federal credit cards contained herein are subject to change, as the federal government periodically accepts bids from various credit card companies for the federal credit card contract(s).

card are exempt from the Vermont Meals and Rooms Tax. Such credit card is currently on a blue field of stars from the United States flag and is decorated with the Great Seal of the United States. Imprinted at the top is “United States of America, I.M.P.A.C., For Official Use Only.” Expenses paid for with these cards are exempt because the charges go directly to the federal government, and not to the employee. There is a toll-free number printed on the back of this card. Merchants who are uncertain of the tax status of the transaction may call the number for confirmation.

Some federal government employees may present a federal American Express card. While the federal government may facilitate obtaining this card for the employee, the employee is billed for the purchases and is personally responsible for payment. The federal American Express card does not convey any tax benefit to the user, whether used for business or personal purposes. Accordingly, the user is not exempt from the Vermont Meals and Rooms Tax.<sup>6</sup>

If a federal employee pays for expenses incurred while on official business with a personal check, a credit card other than the Visa I.M.P.A.C. card (regardless of whether the name of the federal government or an agency or instrumentality thereof appears on the card), or cash, he or she must also pay the Vermont Meals and Rooms Tax. In this instance, it is the employee who contracts with, and is billed by, the hotel and/or restaurant for lodging and/or food. Thus, the legal incidence of the tax falls on the employee, not the federal government, and the transaction is properly taxable.

### **Non-Profit Organizations**

Non-profit organizations are not exempt from the Vermont Meals and Rooms Tax. Included in this category are private schools, private colleges, any school district located outside of the State of Vermont, and other non-profit organizations located within the State of Vermont (unless expressly stated otherwise in this bulletin).

### **Diplomatic and Consular Officials**

Persons identified as exempt from taxation pursuant to treaties or other diplomatic agreements with the United States are issued a Tax Exemption Card by the United States Department of State. The card identifies the bearer as exempt from tax and specifies the extent of the exemption. This is the sole instance in which an individual charged and paying the Meals and Rooms Tax may be exempt.

Foreign diplomats who produce identification documents issued by the federal Department of State are exempt from the Vermont Meals and Rooms Tax if their Tax Exemption Cards identify them as exempt from meals and lodging taxes. Tax Exemption Cards come in a variety of colors, and afford different levels of exemption from state taxes. If the card bears a blue stripe, the holder is entitled to full exemption on all—personal and official—purchases, including meals and occupancy. If the card bears

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<sup>6</sup> Note that American Express does have a separate special account with the federal government that is used primarily for centralized travel reservations. In most cases, these transactions occur without a credit card—they are intended as billing accounts and reservations. The billing and payment receipt are handled through a central operation. Like the Visa I.M.P.A.C. card, this account is billed directly to the federal government and the transactions for food and/or lodging are not subject to the Meals and Rooms Tax. See <http://www.taxadmin.org/fta/rate/b-1598.html>.

a yellow or green stripe, the holder is entitled to full tax exemption on all personal purchases and official purchases except restricted category(ies) identified on the face of the card. If the card bears a red stripe, the holder is entitled to full tax exemption on all purchases over a minimum amount specified on the face of the card. If the card bears a red/green stripe, the holder is entitled to full tax exemption on all purchases over a minimum amount specified on the face of the card—this card is not valid for an exemption on purchases from category(ies) specified on the face of the card.<sup>7</sup> The attached sheet shows examples of such cards.

The yellow stripe card lists all restrictions on tax exemption. Vendors should note that the yellow stripe will eventually replace all other color stripes except the blue stripe. The green, red and red/green stripe cards are valid only until December 31, 2001.

Vendors should be careful to provide only those exemptions specified on the card. Invoices or other evidence of sale must be retained by the vendor to support any deduction claimed on the Vermont Meals and Rooms Tax Return for sales to diplomatic or consular officials. This documentation should show the name of the purchaser, card color, name of the mission, tax exemption number, expiration date of the card, and the minimum level of exemption specified on the card.

***Other Exempt Purchasers:*** The following are also exempt from the Vermont Meals and Rooms Tax:

- American Red Cross, *see Department of Employment v. U.S.*, 385 U.S. 355 (1966) (deeming the Red Cross a federal instrumentality)
- Vermont Credit Unions, 8 V.S.A. § 2085
- Nonprofit Medical Service Corporations (Blue Cross of Vermont), 8 V.S.A. § 4590
- Nonprofit Hospital Service Corporations (Blue Shield of Vermont), 8 V.S.A. § 4518

***Non-Exempt Purchasers:*** The following are not exempt from the Vermont Meals and Rooms Tax:

- Social clubs, fraternal organizations, and non-profit organizations, including those listed under Section 501(c)(3) of the Internal Revenue Code, which includes private school and private colleges, unless otherwise specifically stated in this bulletin
- Governments of states and municipalities other than Vermont

***Reporting Vermont Meals and Rooms Tax Exemption:*** Sales exempt from the Vermont Meals and Rooms Tax should be included in the vendor's gross sale figure in Column A, then deducted in Column B, of the Meals and Rooms Tax Return.

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<sup>7</sup> In addition to the basic Tax Exemption Card, there is a Mission Tax Exemption Card. This card is to be used only for official purchases of goods and services by official agents as identified on the card. The Mission Tax Exemption Cards bear the same color coding as the basic Tax Exemption Cards. The distinction is that purchases made with the Mission cards must be official, not personal—all purchases must be made in the name of the mission and paid for by a mission check or credit card (not cash or personal check).

The voucher which accompanies a check from the State Finance Department should be kept as part of a business's records to substantiate a direct, and therefore exempt, payment from the State of Vermont.

**Summary:** Charges made directly to the State of Vermont, its agencies and instrumentalities; to the federal government, its agencies and instrumentalities; to certain diplomatic and consular officials; to certain medical or hospital corporations; and to the American Red Cross are exempt from the Vermont Meals and Rooms Tax. Charges made to employees of or persons contracting with these entities are not exempt from the tax regardless of whether they are on government business and are ultimately reimbursed for these charges.

**Use of Technical Bulletins:** A technical bulletin provides general information on a specific subject to the public. It does not replace the need for competent legal advice. This technical bulletin supersedes all prior Department pronouncements on this subject.

**For More Information:** Call Taxpayer Services at (802) 828-2551; fax to (802) 828-2720; or write to Business Taxes Division, P.O. Box 547, Montpelier, VT 05601-0547.

Approved:

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Dated

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Sharetha S. Marsicovetere  
Special Assistant Attorney General  
and Attorney for the Department

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Dated

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Edward W. Haase  
Commissioner of Taxes

## **ATTACHMENT B**

### **FEDERAL AGENCIES AND INSTRUMENTALITIES\***

#### **Executive Branch**

EXECUTIVE OFFICE of THE PRESIDENT  
DEPARTMENT of AGRICULTURE  
DEPARTMENT of COMMERCE  
DEPARTMENT of DEFENSE  
DEPARTMENT of EDUCATION  
DEPARTMENT of ENERGY  
DEPARTMENT of HEALTH & HUMAN SERVICES  
DEPARTMENT of HOUSING & URBAN  
DEVELOPMENT  
DEPARTMENT of the INTERIOR  
DEPARTMENT of JUSTICE  
DEPARTMENT of LABOR  
DEPARTMENT of STATE  
DEPARTMENT of TRANSPORTATION  
DEPARTMENT of the TREASURY  
DEPARTMENT of VETERAN AFFAIRS

#### **Legislative Branch**

U.S. HOUSE of REPRESENTATIVES  
U.S. SENATE  
CONGRESSIONAL BUDGET OFFICE  
GENERAL ACCOUNTING OFFICE  
GOVERNMENT PRINTING OFFICE  
LIBRARY of CONGRESS  
FEDERAL ELECTION COMMISSION

#### **Judicial Branch**

ADMINISTRATIVE OFFICE of the U.S. COURTS  
FEDERAL JUDICIAL CENTER  
UNITED STATES SENTENCING COMMISSION

#### **Others**

CENTRAL INTELLIGENCE AGENCY (CIA)  
COMMISSION ON CIVIL RIGHTS  
CONSUMER PRODUCT SAFETY COMMISSION  
DEFENSE NUCLEAR FACILITIES BOARD  
ENVIRONMENTAL PROTECTION AGENCY (EPA)  
EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION (EEOC)  
FARM CREDIT ADMINISTRATION  
FEDERAL DEPOSIT INSURANCE CORPORATION  
FEDERAL LABOR RELATIONS BOARD  
FEDERAL TRADE COMMISSION  
NATIONAL AERONAUTICS & SPACE  
ADMINISTRATION (NASA)  
NATIONAL LABOR RELATIONS BOARD  
NATIONAL TRANSPORTATION SAFETY BOARD  
PEACE CORPS  
SECURITIES & EXCHANGE COMMISSION  
SOCIAL SECURITY ADMINISTRATION  
UNITED STATES POSTAL SERVICE

\* For an exhaustive listing of the departments, agencies, sub-agencies, offices, commissions, etc. of the federal government, see, e.g., <http://www.lib.lsu.edu/gov/fedgov.html>; <http://gazelle.fie.com/www/exec.htm>; <http://gazelle.fie.com/www/legis.htm>; and <http://gazelle.fie.com/www/judicial.htm>.

## **ATTACHMENT A**

## VERMONT AGENCIES AND INSTRUMENTALITIES\*

AGING & DISABILITIES, DEPARTMENT of  
AGRICULTURE, FOOD & MARKETS,  
DEPARTMENT of  
ALCOHOL & DRUG ABUSE, OFFICE of  
ARTS COUNCIL, VERMONT  
ATTORNEY GENERAL, OFFICE of  
AUDITOR, VERMONT STATE  
BANKING, INSURANCE, SECURITIES &  
HEALTH CARE ADMINISTRATION,  
DEPARTMENT of  
BUILDINGS & GENERAL SERVICES,  
DEPARTMENT of  
CHILD SUPPORT, OFFICE of  
COMMERCE & COMMUNITY DEVELOPMENT,  
AGENCY of  
CRIMINAL JUSTICE TRAINING COUNCIL  
DEVELOPMENTAL & MENTAL HEALTH SERVICES,  
DEPARTMENT of  
ECONOMIC DEVELOPMENT, DEPARTMENT of  
ECONOMIC DEVELOPMENT AUTHORITY, VERMONT  
EDUCATION, DEPARTMENT of  
EMPLOYMENT & TRAINING, DEPARTMENT of  
ENHANCED 9-1-1 BOARD  
ENVIRONMENTAL BOARD  
FINANCE & MANAGEMENT, DEPARTMENT of  
GEOGRAPHIC INFORMATION, VERMONT  
DEPARTMENT of  
GOVERNOR'S COMMISSION on WOMEN  
GOVNET/K12net  
HEALTH, DEPARTMENT of  
HOUSING & COMMUNITY AFFAIRS,  
DEPARTMENT of  
HOUSING FINANCE AGENCY, VERMONT  
HUMAN RESOURCES INVESTMENT COUNCIL

HUMAN SERVICES, AGENCY of  
LIBRARIES, DEPARTMENT of & VALS  
LABOR & INDUSTRY, DEPARTMENT of  
LABOR RELATIONS BOARD  
LIQUOR CONTROL, DEPARTMENT of  
LOTTERY COMMISSION  
MEDICAL PRACTICE BOARD  
NATIONAL & COMMUNITY SERVICE,  
COMMISSION on  
NATIONAL GUARD, VERMONT  
NATURAL RESOURCES, AGENCY of  
PERSONNEL, DEPARTMENT of  
PUBLIC SAFETY, DEPARTMENT of  
PUBLIC SERVICE, DEPARTMENT of  
PUBLIC SERVICE BOARD  
SECRETARY of STATE, OFFICE of  
SERVICENET  
SOCIAL & REHABILITATION SERVICES,  
DEPARTMENT of  
SOCIAL WELFARE, DEPARTMENT of  
TAXES, DEPARTMENT of  
TOURISM & MARKETING,  
DEPARTMENT of  
TRANSPORTATION, AGENCY of  
TREASURER, OFFICE of  
VERMONT HISTORICAL SOCIETY  
VERMONT LIFE MAGAZINE  
(DEPARTMENT of TOURISM &  
MARKETING)  
VETERANS AFFAIRS, DEPARTMENT of  
WATER RESOURCES BOARD

\* For an exhaustive listing of the departments, agencies, sub-agencies, offices, commissions, etc. of the State of Vermont, refer to the white pages of the Vermont State Government Telephone Directory. For individuals who do not have access to a Vermont State Government Telephone Directory, contact the Vermont Department of Taxes.